

Boucher Named Library Journal's Politician of the Year (September 15, 2006)

Politician of the Year 2006, Rick Boucher-Fighter for Access

By John N. Berry III - September 15, 2006

Library champion Rick Boucher makes new laws to secure old rights

The voters of the 9th District of Virginia have elected and reelected Democratic Congressman Rick Boucher for a dozen terms, some 24 years now. Early to recognize the incredible usefulness of the Internet and new technology to his constituents, Boucher was and is a visionary, seeing and solving problems and creating policy solutions as new technologies arrive. He has long been a friend and ally to libraries in the 9th District and the nation. He is one of the architects of federal law and policy on information technology, the Internet, copyright, and intellectual property and a formidable opponent of actions that threaten the access rights of libraries and users.

Boucher's work to preserve the concept and extend the dimensions of "fair use" in copyright and to ensure that libraries and citizens can continue to have free access to all the riches of the Internet and the entire intellectual record have made him Library Journal's 2006 Politician of the Year.

A friend in DC

Boucher's popularity in his district is echoed in Washington. He has made alliances and working partnerships on both sides of the aisle and has built a Capitol constituency that includes the D.C. cadre of the library profession. Proud of these working relationships, Boucher speaks very highly of the representatives of the American Library Association (ALA) and Association of Research Libraries (ARL), among others.

One of his partners, Prue (Prudence S.) Adler, associate executive director of federal relations and information policy at ARL, tells how happy she is with LJ's choice. "As a library champion, Boucher has worked tirelessly to ensure that fair use and library interests, such as network neutrality, continue to be robust in our...digital world," she says. "He has been a leader in introducing and promoting legislation to protect and strengthen the application of the concept of fair use so important to libraries and their users." Lynne Bradley, director of the Office for Government Relations at ALA's Washington Office, says, "His work for the preservation of universal access and the E-rate and his battle for network neutrality demonstrate his commitment to a level playing field for all."

Bridges to the mainstream

Shortly after he was first elected to Congress, Boucher realized that to build a bridge between the rural communities he represented and the American economic mainstream would require use of the most advanced communication technologies. "In those days, just bringing information to people was a key priority," Boucher says. "We needed better access to satellite programs and to make sure that the satellite carriers could get access to more programs themselves."

He proposed the first Satellite Home Viewer Act in 1986, a law that has been renewed repeatedly. This work also got Boucher involved in the broad range of telecommunications initiatives. He served as chair of the Subcommittee on

Science of the House Committee on Science and Technology, which had authority over the National Science Foundation (NSF). NSF essentially owned the Internet. The subcommittee presided over and facilitated the privatization of the Internet. Boucher was among the earliest to see the economic and commercial potential of that new technology.

"I introduced and pushed through Congress the bill that allows commercial content on the Internet," Boucher says with pride. He was one initiator of the House Internet Caucus in 1996 and has served as cochair of that group of more than 180 members of Congress. Boucher is the only member of the House serving on both the Commerce Committee and Committee on the Judiciary, the two primarily responsible for federal information technology policy, including Internet issues.

Protecting fair use

Boucher is justifiably proud of his work with the library community on copyright and the need to preserve fair use. He asserts that the concept of fair use is now under challenge as "never before." He opposes Section 1201 of the 1998 Digital Millennium Copyright Act (DMCA), which makes it a federal criminal offense to bypass a technological protection measure built into a program to prevent copying. The mere act of bypassing that protection is a federal crime, even to exercise uses allowed under copyright.

"This gives originators of content (book publishers, the recording industry, the motion picture industry, et al.) the legal ability effectively to eliminate fair use altogether," Boucher says, quickly adding, "that means that what is available on the library shelf today may in the future, as content is increasingly delivered in digital format, be available only on a pay per use basis. Today, under the fair use doctrine, you can go to the public library, take a book off the shelves, photocopy a couple of pages in order to write a report or scan it in to share it with someone...and that is not a copyright infringement.

"In the future," Boucher continues, "that right may be abolished if we don't take steps now to preserve fair use. The creator of content in the future will deliver it in digital format, protected with a password, and to get around the password the user will have to pay every time.... This is the great concern, and I think every librarian is worried about it. I've introduced a bill that would solve this problem by allowing users to bypass technical protection measures for purposes that do not infringe on copyright, purposes exercising the right of fair use."

Boucher says there is "terribly strong" opposition to the bill because it "calls into question" the original intent of those who wanted the DMCA. It seems almost designed to kill fair use.

Network neutrality

Boucher feels strongly that content creators with no affiliation with cable or telephone companies should have equal opportunity to have their content delivered across the Internet to consumers. Given the constricted bandwidth common in the United States, Boucher says it would be a mistake to allow telephone companies and cable companies to reserve a lane just for their own content or the content of those willing to pay for access to bandwidth.

"This would leave a very small bandwidth for the public Internet side...and that small bandwidth would not be sufficient to carry, for example, video originated by an unaffiliated content creator like Google or Yahoo, or maybe a national library association," says Boucher. "It is important that we have legislation to assure a continued neutral operation of the Internet, which has made for its openness and accessibility. No particular program originator has had a technical advantage, in terms of access to greater speeds or bandwidth.... That is why the Internet has been such a tremendous platform for innovation that has spawned the creation of hundreds of thousands of jobs and dramatically enriched the American economy. We place all of that at risk if we allow a fundamental reengineering of the key architecture of the Internet."

The simple answer, according to Boucher, is for the telephone companies and the cable companies to raise their last mile broadband connection speeds. In other nations, 100 megabit per second connections are routine. In the United States, the connections average one megabit or less.

"Here, where the last mile is privately owned, there may not be as much incentive to do the investment to increase connection speeds," Boucher says, adding, "particularly if your competitor is not doing it either. That is one reason I am so strongly in favor of allowing local governments to be free to offer commercial telecomm services.... I'm for a federal law to allow it."

Boucher wrote the new Digital Media Consumer Rights Act to address these and other issues on the digital agenda. Library organizations strongly support the bill.

Licensing and copyright

Boucher was deeply concerned when we asked about licensing contracts. He feels strongly that companies ought not to be able to use "contracts of adhesion" like shrink-wrapped licenses to gain more control over content at the expense of the rights of users. "Librarians should try to resist this kind of contract."

Boucher says the need for federal direct support for libraries is as great as ever. "Whether or not such aid continues probably depends upon which party controls the Congress," he says. "Republicans would be a lot less likely to provide that support directly, as they are less likely to provide support for virtually all domestic programs, particularly those that relate to education or libraries. The Democrats would be far more likely to provide a continuation of that direct support."